

National Credit Union Administration

§ 747.3

(1) Section 202 of the Act (12 U.S.C. 1782);

(2) Section 1120 of FIRREA (12 U.S.C. 3349), or any order or regulation issued thereunder;

(3) The terms of any final or temporary order issued under section 206 of the Act or any written agreement executed by the National Credit Union Administration ("NCUA"), any condition imposed in writing by the NCUA in connection with any action on any application, notice, or other request by the credit union or institution-affiliated party, certain unsafe or unsound practices or breaches of fiduciary duty, or any law or regulation not otherwise provided herein, pursuant to 12 U.S.C. 1786(k); and

(4) Any provision of law referenced in section 102(f) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)) or any order or regulation issued thereunder;

(d) Remedial action under section 102(g) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(g)); and

(e) This subpart also applies to all other adjudications required by statute to be determined on the record after opportunity for an agency hearing, unless otherwise specifically provided for in subparts B through J of this part.

[56 FR 37767, Aug. 8, 1991; 57 FR 523, Jan. 7, 1992, as amended at 61 FR 28025, June 4, 1996; 71 FR 67440, Nov. 22, 2006]

§ 747.2 Rules of construction.

For purposes of this subpart:

(a) Any term in the singular includes the plural, and the plural includes the singular, if such use would be appropriate;

(b) Any use of a masculine, feminine, or neuter gender encompasses all three, if such use would be appropriate;

(c) The term *counsel* includes a non-attorney representative; and

(d) Unless the context requires otherwise, a party's counsel of record, if any, may, on behalf of that party, take any action required to be taken by the party.

§ 747.3 Definitions.

For purposes of this subpart, unless explicitly stated to the contrary:

(a) *Administrative law judge* means one who presides at an administrative

hearing under authority set forth at 5 U.S.C. 556.

(b) *Adjudicatory proceeding* means a proceeding conducted pursuant to this subpart and leading to the formulation of a final order other than a regulation.

(c) *Decisional employee* means any member of the NCUA's or administrative law judge's staff who has not engaged in an investigative or prosecutorial role in a proceeding and who may assist the Agency or the administrative law judge, respectively, in preparing orders, recommended decisions, decisions, and other documents under the Uniform Rules.

(d) *Enforcement Counsel* means any individual who files a notice of appearance as counsel on behalf of the NCUA in an adjudicatory proceeding.

(e) *Final order* means an order issued by the NCUA with or without the consent of the affected institution or the institution-affiliated party, that has become final, without regard to the pendency of any petition for reconsideration or review.

(f) *Institution* includes: (1) Any Federal credit union as that term is defined in section 101(1) of the Act (12 U.S.C. 1752(1)); and

(2) Any insured state credit union as that term is defined in section 101(7) of the FCUA (12 U.S.C. 1752(7)).

(g) *Institution-affiliated party* means any institution-affiliated party as that term is defined in section 206(r) of the Act (12 U.S.C. 1786(r)).

(h) *Local Rules* means those rules promulgated by the NCUA in the subparts of this part other than subpart A of this part.

(i) *OFIA* means the Office of Financial Institution Adjudication, which is the executive body charged with overseeing the administration of administrative enforcement proceedings for the NCUA, the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System ("Board"), the Federal Deposit Insurance Corporation ("FDIC"), and the Office of Thrift Supervision ("OTS").

(j) *Party* means the NCUA and any person named as a party in any notice.

(k) *Person* means an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint